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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/071,437

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Richard D. Stroman

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EXAMINER

KARMIS, STEFANOS

ART UNIT

PAPER NUMBER

3693

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/071,437

**Applicant(s)**

STROMAN ET AL.

**Examiner**

STEFANOS KARMIS

**Art Unit**

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 239-245 is/are pending in the application.
- 4a) Of the above claim(s) 244 and 245 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 239-245 is/are rejected.
- 7) ☒ Claim(s) 239 and 242 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/15/09
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This communication is in response to the amendment filed on 24 November 2009.

***Status of Claims***

2. Claims 1-4, 239, 240, 242, and 243 are currently amended. Claims 244 and 245 are newly added. Claims 1-4 and 239-245 are currently pending.

***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on 15 December 2009 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Election/Restrictions***

4. Newly submitted claims 244 and 245 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Independent claim 244 recites a sale indicator and buyer requirement indicator and retrieving genetic information based on the sale indicator, such as marketing program compliance information.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 244 and 245 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Objections***

5. Claim 239 is listed as Previously Presented. However, Claim 239 is Currently Amended.
6. Claim 242 is objected to because of the following informalities: The word “method” should be deleted. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4 and 239-243 are rejected under 35 U.S.C. 102(b) as being anticipate by US Patent No. 6,000,361 to Pratt (hereafter Pratt).

In regard to claims 1, 3, and 243, Pratt discloses a system and method comprising:

receiving, using one or more computers, a description of one or more genetic requirements of a livestock marketing program (column 7, lines 20-52 and column 18, lines 27 thru column 19, line 6, and column 28, line 63 thru column 29, line 48 and accompanying tables 3A-3G);

electronically identifying, using said one or more computers, one or more animals (column 11, lines 11-36 and column 16, lines 35-43);

collecting, using said one or more computers, genetic information on said identified one or more animals (column 7, lines 20-52 and column 18, lines 27 thru column 19, line 6, and column 28, line 63 thru column 29, line 48 and accompanying tables 3A-3G);

comparing, using said one or more computers, at least part of said collected genetic information on said identified one or more animals with said description of one or more genetic requirements (column 7, lines 20-52 and column 26, line 10 thru column 28, and column 29, lines 1-48 and accompanying tables 3A-3G and column 28, lines 28; Examiner notes that the animals are sorted based on comparison of genetic requirements and requirements for each sorting pen, different types of sorting pens, and marketing windows);

determining, using said one or more computers and based at least in part on said comparison, a level of compliance of at least one of said identified one or more animals with at least one of said one or more genetic requirements of said livestock marketing program (column 7, lines 20-52 and column 26, line 10 thru column 28, and column 29, lines 1-48 and accompanying tables 3A-3G and column 28, lines 28; Examiner notes that the animals are sorted based on comparison of genetic requirements and requirements for each sorting pen, different types of sorting pens, and marketing windows. For example, animals that don't comply with certain pens are sorted to a trash pens); and

storing, using said one or more computers, a result of said determination in a compliance database associated with said livestock marketing program (column 31, lines 6 thru column 32, lines 39).

In regard to claims 2 and 4, Pratt further discloses providing to a user access to at least a portion of said compliance database when said user purchases one or more of said one or more animals (column 5, lines 35-40 and column 28, lines 12-21 and column 29, lines 46-48; Examiner notes that there is no actual purchasing done in the claim, and therefore the claim is interpreted as granting access to a database with the genetic information).

In regard to claim 239, Pratt discloses identifying, using one or more computers, one or more groups of animals based at least in part on said result (column 7, lines 20-52 and column 26, line 10 thru column 28, and column 29, lines 1-48 and accompanying tables 3A-3G and column 28, lines 28).

In regard to claim 240, Pratt discloses wherein said one or more genetic requirements comprise disallowed genetics (column 23, lines 42-48; animals that don't meet genetic requirements are sorted to a trash group; Examiner notes that this is analogous to disallowed genetics since these animals don't meet the requirements of any of the other sorting groups).

In regard to claim 241, Pratt further discloses an environmental management system (column 29, lines 19-22).

In regard to claim 242, Pratt further discloses providing a user with access to a risk management tool (column 29, lines 30-35; Examiner notes that the market force collection and

price factors are analogous to the risk management in Applicant's specification which consider user's costs and market conditions).

### ***Response to Arguments***

9. Applicant's arguments, filed 24 November 2009 have been considered but are not persuasive. Applicant argues that Pratt does not teach or suggest comparing collected genetic information with a description of genetic requirements and determining a level of compliance based on the comparison. The Examiner respectfully disagrees. Pratt teaches comparing genetic information with a description of genetic requirements. Pratt teaches that animals are sorted into pens based on various genetic requirements for each sorting pen (column 15, lines 16-40 and column 23, lines 1-8 and column 18, lines 27-39). By comparing the genetic information to the requirements for each pen, the animals are sorted and re-sorted if they no longer comply with the sorting group requirements the animal is resorted to a different sorting group which the animal characteristics better complies with (column 23, lines 9 thru column 24, line 8 and column 7, lines 29 thru column 28, line 3). For at least these reasons, Pratt teaches comparing collected genetic information with a description of genetic requirements and determining a level of compliance based on the comparison.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEFANOS KARMIS whose telephone number is (571)272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted  
/Stefanos Karmis/  
Primary Examiner, Art Unit 3693  
16 March 2010